

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DEVLIN DEAN DAVEY,

Plaintiff,

v.

Case No. 20-CV-651

KEVIN KREMBS, *et al.*,

Defendants.

ORDER

On July 17, 2020, I screened the *pro se* complaint filed by plaintiff Devlin Dean Davey and permitted him to proceed on Eighth Amendment claims against Dr. Kevin Krembs and two unknown defendants: a Jane Doe Registered Nurse and a John or Jane Doe Health Services Unit Personnel responsible for scheduling his appointments at Dodge Correctional Institution (“DCI”). (ECF No. 8.) I added DCI Warden Jason Benzal as a defendant for the limited purpose of helping Davey identify the names of the two Doe defendants. (*Id.* at 9.)

Davey has submitted a letter in which he identifies Abby L. Buwalda as the Jane Doe Registered Nurse. (ECF No. 11.) I will construe his letter a motion to substitute defendant Buwalda for the Jane Doe placeholder. So construed, I will grant the motion. Because Buwalda is alleged to be a state employee at DCI, I will direct service under the informal service agreement between the Wisconsin Department of Justice and this court. A copy of the complaint (ECF No. 1), the screening order (ECF

No. 8), Davey's letter (ECF No. 11), and this order shall be electronically transmitted to the Wisconsin Department of Justice for service on Abby L. Buwalda at DCI.

Davey also seeks to add Kelly "Doe" (Davey does not know her last name) at RCI, Shaune M. Huban at DCI, Racine Correctional Institution ("RCI") Warden Paul Kemper, and RCI Health Services Unit Manager Mrs. Vasquez as defendants. Davey did not include allegations against these defendants in his complaint. He states that Kelly Doe was responsible for scheduling his appointments at RCI. (ECF No. 11 at 1.) But in the screening order I permitted him to proceed against the person responsible for scheduling his medical appointments at DCI. His discussion of these persons in his letter is, in effect, an attempt to amend his complaint to add these defendants. Davey's attempt to amend his complaint does not comply with the court's local rules regarding amended pleadings, Civil L. R. 15, so I will deny his request to add these defendants. *See Hinterberger v. City of Indianapolis*, 966 F.3d 523, 528 (7th Cir. 2020) ("[D]istrict courts may require strict compliance with their local rules."); *Smith v. Adams*, 804 F. App'x 390, 391 (7th Cir. 2020) (same for *pro se* plaintiffs).

I will keep DCI Warden Benzel as a defendant to help Davey identify the DCI personnel responsible for scheduling his appointments. Warden Benzel's obligation to respond remains limited as described in the screening order. (ECF No. 8 at 13–14.) Davey must identify the remaining John or Jane Doe defendant **by October 24, 2020** (sixty days from the date that the attorney for Warden Benzel entered her appearance) or advise the court why he is unable to do so. (*Id.* at 14.) If he does

neither, I will dismiss the remaining DCI Doe defendant, and this case will proceed against only the two named defendants, Kevin Krembs and Abby L. Buwalda.

THEREFORE, IT IS ORDERED that Davey's letter (ECF No. 11) is construed as a motion to substitute and, so construed, is **GRANTED**. The Clerk of Court is directed to add Registered Nurse Abby L. Buwalda as a defendant. The John or Jane Doe placeholder shall remain until Davey identifies the remaining John or Jane Doe defendant.

IT IS FURTHER ORDERED that the complaint, the screening order, Davey's letter, and this order shall be electronically transmitted to the Wisconsin Department of Justice for service on Abby L. Buwalda at DCI under the informal service agreement between the Wisconsin Department of Justice and this court. It is **ORDERED** that, under the informal service agreement, defendant Buwalda shall file a responsive pleading to the complaint within sixty (60) days.

IT IS FURTHER ORDERED that to the extent Davey seeks to amend his complaint, that request is **DENIED**.

IT IS FURTHER ORDERED that DCI Warden Jason Benzel shall remain on this case for the limited purpose of assisting Davey in identifying the remaining John or Jane Doe defendant.

Dated in Milwaukee, Wisconsin this 14th day of September, 2020.

BY THE COURT:


NANCY JOSEPH
United States Magistrate Judge